

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No. 28116 of 2018 (O&M)

Date of Decision: 24.08.2022

Surender Khokar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Jamshed Ahmed, Advocate
for the petitioner.

Mr. Kiran Pal Singh, Assistant Advocate General, Haryana

MAHABIR SINGH SINDHU, J.

1. Present petition has been filed under Article 226 of the Constitution, *inter alia*, for quashing the impugned order dated 07.09.2018 (P-6), whereby State Information Commission, Haryana (in short “Commission”) imposed the penalty of Rs. 25,000/- upon the petitioner.

2. This Court, while issuing notice of motion vide order dated 11.12.2018, passed the following order:-

“ It is the contention of the learned counsel for the petitioner that at the time when the application under the Right to Information Act was submitted, Sunita Panwar-respondent No. 6 was working as SPIO, Rohtak and she continued up to 05.03.2018. Thereafter, Sh. Virender Malik respondent No. 7 was appointed as SPIO, Rohtak on 25.04.2018. Petitioner was only appointed as SPIO on 02.08.2018. The imposition of cost, therefore, upon the petitioner by the State Information Commission vide order dated 07.09.2018 is without taking into consideration the said aspect and he has been held responsible merely because at the time of passing of the order dated 07.09.2018, he was the SPIO. He, thus, contends that the liability, if any, would be that of respondents No. 6 and 7.

Notice of motion to the respondents, for 15.03.2019.

In the meanwhile, let the penalty amount be deposited by the petitioner under protest subject to the outcome of the writ petition. ”

3. It is contended by learned counsel for petitioner that as a matter of fact, when the application was moved by respondent No. 8 (Muniram) for seeking certain information, he was not working as SPIO, rather one Virender Malik (respondent No. 7) had been assigned the duties to work as such. It is also contended that even respondent No. 8 is fully satisfied with the information already supplied to him.

4. Learned State Counsel does not dispute the aforesaid factual position.

5. Heard learned counsel for parties and perused the paper-book.

6. This Court, while issuing notice of motion vide order dated 11.12.2018, passed the interim order, inter alia, to the following effect:-

“
In the meanwhile, let the penalty amount be deposited by petitioner under protest subject to the outcome of the writ petition.”

7. It transpires that on 14.09.2017, when application was submitted under Right to Information Act, respondent No. 6 was working as SPIO and she continued upto 05.03.2018. Thereafter respondent No. 7 was entrusted the work of SPIO, and continued uptill 25.04.2018. Only thereafter, petitioner assumed the charge of SPIO. Thus, while supplying the information, there was no delay on his part. Even otherwise respondent No. 8 (Muniram) has filed an affidavit, wherein he candidly acknowledged that desired information has already been received by him and he does not want any action against the petitioner. For reference, relevant para-2 of the

“ 2. That I had demanded the information RTI Act from any department regarding Rajni daughter of Hukam Chand, H.No. 2753, Sector-3, Rohtak, who is working on the post of JBT in R.B.M.V., Hamayapur, Rohtak. The abovesaid information has been received by me and I am fully satisfied with this information. I do not initiate any action. ”

8. In view of the above, this Court is fully convinced that there was no lapse on the part of petitioner. Therefore, the impugned order dated 07.09.2018 (P-6) imposing penalty of Rs. 25,000/- upon the petitioner deserves to be set aside.

9. Consequently, present petition is **allowed**. The impugned order to the extent of imposable penalty of Rs. 25,000/- against the petitioner is set aside. In case the petitioner has already deposited the amount of Rs. 25,000/-, the same be refunded to him.

August 24, 2022

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**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>